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CENTRAL INTELLIGENCE AGENCY ACT AMENDMENTS OF 1963

EXPLANATION AND JUSTIFICATION

PART A. PURPOSE OF PROPOSED BILL

1. Improved Retirement System

The proposed bill permits the Agency to improve its retirement program by authorizing the establishment of a retirement system corresponding to that of the Foreign Service. The Central Intelligence Agency needs to attract and retain a force of highly motivated careerists who are intensively trained in unique skills. However, the Agency is unable in fact to provide full-term careers for many individual officers. In order to minimize the adverse effects of necessary programs of managed attrition and to preserve its ability to recruit and retain the high-caliber personnel it needs, the Agency must make reasonable provision for the futures of those individuals who must be separated before completing a full-term career of thirty or so years. Therefore, the proposed bill adds a new Title II to the Central Intelligence Agency Act of 1949, as amended, which establishes for a limited number of Agency employees a retirement and disability system corresponding to that established for persons serving in the Foreign Service of the Department of State.

2. Other Provisions

Section 4 of the Central Intelligence Agency Act was originally drafted to extend to Agency employees serving abroad travel expenses and overseas allowances similar to those extended to Foreign Service personnel. Section 2 of the proposed bill makes appropriate modifications in Section 4 of the Central Intelligence Agency Act to bring it up to date in this regard. Also included are certain other amendments which have been determined to be necessary.

1. Need for a Separate Retirement System for Certain Employees

a. Summary

All regular employees of the Central Intelligence Agency are at present covered by the provisions of the Civil Service Retirement Act. Such coverage is appropriate for those whose conditions, obligations, and terms of service are comparable to those of federal employees generally. However, the Agency has a serious problem in its need to make more adequate provision for certain of its employees who should be retired at an earlier age and with a more equitable annuity than can be provided under the Civil Service Retirement Act. This need stems from the fact that the Agency cannot provide to or expect from many individuals in its service a full-term working career of thirty or so years.

b. Background

(1) The nature of the Agency's mission requires people who are highly motivated and who develop unique and specialized abilities through their continuing training and service over the years. A substantial proportion of Agency personnel accept, as do members of the military service, the obligation to serve anywhere in the world at the Agency's direction--not at their own will--and to be available for duty on a 24-hour-a-day basis. Further, the stresses and strains of uneven and uncertain hours of work, of duty in unhealthful locations, and of arduous assignments require people who have a high degree of vigor, vitality, endurance, resilience, and adaptability.

(2) There are other factors pertaining to the individuals themselves which, over the years, limit their ability and desire to continue in overseas service.

(a) Our experience has shown that many officers or members of their families will in time incur physical impediments which limit or preclude their further assignment overseas. The extreme climates and inferior medical facilities of many foreign areas make living abroad less healthful than in the United States. Also, Americans, because of the advances of sanitation and public health in this country, have failed to develop the natural immunities which most foreigners develop. Consequently, Americans are more susceptible than local inhabitants to the diseases of an area.

(b) The wear and tear of repeated illness saps an individual's strength and resilience and affects his longevity. Moreover, ills which an employee encounters in one place often attach themselves permanently as chronic and sometimes disabling conditions. This contributes to the need for the earlier retirement provisions now proposed.

(c) In some areas of the world, death and capture hang as a threat over Agency employees. Some have died or have been killed as a result of an official assignment; others have been arrested and imprisoned for periods ranging from a few days to many years. Employees sent to hazardous areas receive special instructions and training on avoiding capture and, of course, the same people are not kept too long in such assignments.

(d) Finally, there is "motivational exhaustion." This term is used to describe a gradual lessening of interest and enthusiasm of an officer as a result of impingements on his personal and family life. These stem from the transient nature of his assignments, the complications and restrictions of security requirements, and intrusions on his family life.

(3) The dynamic nature of intelligence work produces sudden and sometimes radical shifts in the types of personnel required and in their deployment. For example, the Agency's responsibility for covert cold war functions requires that much of its effort be directed to troubled areas, wherever they may be. Civil troubles often bring about a retrenchment of activity on the part of other U.S. Government agencies, but a reorientation and intensification of that of the Agency. Completion of a mission of a temporary nature or a shift in emphasis or direction of operations may result in an excess of officers who are skilled in a relatively narrow field. Their primary qualifications thus become obsolete or unneeded and they become "occupationally surplus."

c. Manpower Control

(1) The Agency finds it increasingly necessary to impose manpower controls to ensure appropriate alignment as to age, qualifications, and other characteristics of its employees engaged in conducting or supporting foreign intelligence operations. Insofar as possible, imbalances should be and are corrected by the reassignment of officers who cannot, or should not, continue in such work to other fields of work in the Agency. However, encouraged and induced attrition will continue to be necessary and a program of managed attrition is feasible only if it is linked to a system of retirement benefits providing fair annuities to those who have earned early retirement.

(2) The proposed bill would provide these individuals with a more equitable annuity, beginning immediately upon their separation. This would place them in a better position to accept less demanding and probably lower-paid employment. It is often difficult for an Agency employee to obtain other employment. The special skills required for intelligence work, developed over the years by training and experience within the Agency, are not directly applicable to other fields. This situation is aggravated by security considerations which do not allow an Agency employee to describe to a prospective employer the substance of his Agency duties and responsibilities. There is also a reluctance on the part of other employers, both Governmental and private, who are engaged in business overseas to hire a former intelligence officer. This attitude reflects their concern that the attitude of foreign officials toward their enterprises might be adversely affected if they were known to employ former intelligence officers.

(3) During the past year, the Agency has separated some 125 individuals as surplus to its needs because of the several factors described above. These people had given years of competent and faithful service to the Agency and to the Government. The process of terminating their employment was made the more painful because of the relatively inadequate assistance which the Agency could offer them in making occupational transfers or in retiring prematurely.

2. Proposed Retirement System

a. In order to minimize the adverse effects of such programs on the Agency's ability to recruit and retain the caliber of personnel needed, and particularly to minimize their effects on the dedicated personnel already in the service of the Agency, better provision must be made for the futures of those individuals who are separated before completing a full-term career. An important means for doing so is to establish a retirement system permitting earlier retirement with a more nearly adequate and equitable annuity than is possible under the Civil Service retirement system.

b. Careful study has been devoted to this matter. Recognizing the difficulties in developing an entirely new retirement system, the Agency examined existing systems. We have determined that the Foreign Service system fulfills Agency requirements and is appropriate for those Agency employees whose careers involve conditions of service comparable to those of the Foreign Service personnel. Further, by adopting a system corresponding to that of the Foreign Service, the Agency can take advantage of the considerable study and experience which have gone into its development.

c. Appendix II compares the pertinent provisions of the proposed Agency retirement system and the Foreign Service and the Civil Service retirement systems. In format, this chart is similar to one appearing in the Report of the House Committee on Foreign Affairs in the second session of the 86th Congress. It was prepared at that time in connection with proposed amendments to the Foreign Service Act of 1946, as amended, relating to the retirement system, which proposals were subsequently enacted into law.

d. All of the Agency's employees do not serve under conditions warranting other than the normal retirement considerations. Consequently, the Agency does not intend to place all of its personnel under the proposed new system. Those who are to be designated for coverage will undergo a rigid selection process, the essential criteria for coverage being as follows:

(1) Career employees whose duties and responsibilities are predominantly concerned with the conduct and support of intelligence operations in foreign countries.

(2) Career employees whose duties are so specialized that they are placed at an unusual disadvantage when required to seek other employment.

e. It is estimated that a maximum of [redacted] of our total employees STATINTL will qualify for coverage under the proposed system; civil service retirement will remain the retirement system for all other employees. During the past year, the average age of Agency personnel who retired under the Civil Service retirement system was 66. We plan in time to lower the average retirement age of those covered under the proposed system to about 55 years, which is comparable to the average retirement age in the Foreign Service.

f. The specific provisions of the proposed retirement system and other amendments to the Central Intelligence Agency Act and explanatory notes are contained in Appendix I, Sectional Analysis and Explanation.

3. Cost Estimates

a. There will be certain increased costs for the administration of the retirement system. For reasons of efficiency and security, it is considered essential that full administration of the program be accomplished within the Agency. It is estimated that by the end of the first five years the administration of the proposed program would cost approximately \$85,000 per year including an increased staffing requirement of approximately eight man-years. Internal administration of the program would include determinations of eligibility and entitlements, payment of retirement benefits, and all related administrative matters.

b. Program costs cannot be estimated with comparable precision. However, a realistic estimate can be made of the increased payout in basic annuity benefits under the proposed system over the civil service retirement system for the next five fiscal years. The estimate assumes a target rate of 67 retirements per year. Other assumptions, based upon manpower studies and age and grade characteristics of the eligible group, contemplate an average retirement age of 55 years with 25 years of service and an average high-five salary at about the second step of GS-13.

ESTIMATE OF TOTAL INCREASED ANNUITY PAYMENTS

<u>Fiscal Year</u>	<u>Annuitants (Cumulative Total)</u>	<u>Increased Annuity Payments (Annual Payout)</u>
1964 ($\frac{1}{2}$ year)	34	\$ 17,612
1965	101	57,142
1966	168	100,022
1967	235	148,932
1968	302	<u>197,842</u>
Total Increased Annuity Payments		\$ <u>521,550</u>

d. The chain of recruitment, reassignment, and promotion actions created by this annual retirement of officers would result in a considerable lapse in salary expenses. Assuming an average lag of six months in this process, the reduction of expenditures would approximate \$2,516 per retirement and would total approximately \$452,880 over a five-year period. This amount would almost offset the estimated increase in annuity payments for the first five years that the new system was in operation.

PART C. OTHER PROVISIONS

1. General

The purpose of section 2 is to bring up to date references to other statutes and to update certain of the existing provisions of the Central Intelligence Agency Act. Some of these are necessary to achieve desired legal clarification and some are new authorities. Section 3 merely inserts new headings in the Agency Act for convenient reference and does not require explanation. The following explanations all pertain to subsections of Section 2.

2. Procurement Authorities [Subsections (1) and (2)]

The Central Intelligence Agency Act of 1949 authorized the Agency to exercise certain specified authorities contained in the Armed Services Procurement Act of 1947. Since that time the Armed Services Procurement Act has been codified and enacted into positive law in Title 10 of the United States Code. Consequently, the purpose of these subsections is to provide corrected citations to the Armed Services Procurement Act.

3. Allowances and Benefits [Subsection (3)]

Subsection (3) amends section 4 of the Central Intelligence Agency Act of 1949 adding three new paragraphs, [(1) (G), (1) (H), and (8)]. The preceding paragraphs of section 4 were originally patterned after allowances and benefits available to Foreign Service personnel. Our new paragraphs are provisions which have been subsequently authorized by the Congress for Foreign Service personnel and they are:

a. Rest and Recuperation Travel

Paragraph (1) (G) permits the travel of employees and members of their family at government expense from certain designated hardship posts to an area where the employee and his family may relax and obtain needed freedom from climatic and other conditions which caused his post of assignment to be designated as a hardship post.

b. Dependents Accompanying Employee on Temporary Duty

Not infrequently, an Agency employee, upon assignment to a permanent post of duty is directed to deviate to or stop at, another post en route in order to receive orientation or training. Paragraph (1)(H) would permit the dependents of the employee to travel concurrently and remain with him at the temporary duty post with appropriate travel expenses paid by the Agency. This authority would avoid requiring the employee to choose between sending his family on to his permanent duty station prior to his arrival or scheduling his departure from Washington early in order to be at the post in time to meet his family upon their arrival.

c. Orientation and Language Training for Dependents

Paragraph (8) will permit necessary orientation or language training for members of the employee's family where this is deemed necessary because of the circumstances of the prospective post of assignment or because of contemplated duties of the employee.

4. Eighteen-month Home Leave [Subsection (4)]

Existing authority to order employees to the United States from a post abroad for home leave is conditioned upon "completion of two years' continuous service abroad or as soon as possible thereafter." This proposal extends the two-year period to three years and also permits the Director, when hardship posts are involved, to order the employee on home leave after completion of 18 months of continuous service. At certain hardship posts it is highly desirable to return the employee for home leave after eighteen months; on the other hand, at posts where living conditions are more favorable, a tour of duty of three years is more appropriate than a two-year tour. Therefore, this proposal will give the Agency additional flexibility in managing the assignments of employees on a world-wide basis.

5. Hospitalization and Travel for Medical Treatment [Subsection (5)]

a. Travel for Medical Treatment

Existing legislation permits the Agency to pay the travel expenses of employees who suffer illness or injury abroad to the nearest locality where a suitable hospital exists. The proposed legislation removes the requirement of hospitalization and replaces it with a more realistic standard permitting travel at government expense when travel is required to obtain adequate medical care. In many places medical care available locally is either nonexistent or is completely inadequate by U.S. standards; consequently, while the illness or injury may not require hospitalization, travel to a location where adequate medical care is available becomes a necessity. In addition, this provision includes the travel of dependents in the event of their illness or injury on the same basis as for the employee.

b. Hospitalization or Similar Treatment

Existing authority permits the Agency to pay the cost of hospitalization of an employee in the event of illness or injury incurred abroad. The proposed legislation would broaden this standard slightly by authorizing reimbursement not only for hospitalization but also for costs of medical treatment where hospitalization is not required. In many cases, although the illness or injury may not require hospitalization, treatment which cannot be obtained locally is required to prevent a more serious illness or aggravation of the injury. This proposed legislation would also permit similar reimbursement for expenses of dependents located abroad; however, for dependents there is a \$35.00 deductible clause and a maximum limitation of 120 days of treatment for each illness or injury. This maximum limitation will not apply in the event it is determined that the illness or injury clearly is caused by the fact of location of the dependent in the foreign area.

6. Re-employment Rights and Claims Authority [Subsection (6)]

a. Re-employment Rights

This is a new authority for the Agency which would permit an individual to transfer from another department or agency to CIA for a specified period of time agreed upon by the two agencies and afford the individual statutory protection in re-employment upon completion of his Agency assignment. This authority is already available in slightly differing forms to such agencies as State Department and AID. It could be of material assistance in fulfilling critical personnel requirements in times of emergencies by giving employees transferring to CIA the assurance that they can return to their parent agency upon completion of their assignment to CIA.

b. Claims Authority

The Agency has found need for authority to process justifiable claims arising at overseas installations. The proposed legislation would permit the Agency to settle such claims of non-citizens in amounts not exceeding \$10,000 for any one claim. This authority would extend to loss or damage to real or personal property or personal injury or death. Claims would only be payable where it was established that the loss arose abroad out of the act or omission of an Agency employee or a person acting on behalf of the Agency. Similar authority in a somewhat more extensive form is available to the military departments, Department of State and other agencies.

7. Tax Exemption of Disability Annuities [Subsection (7)]

This authority is related to the establishment of the new CIA retirement and disability system. It would exempt from gross income for Federal income tax purposes a disability annuity payable under the proposed CIA retirement system. Similar provision has been made for disability annuities under the Foreign Service retirement system. Disability annuities for military personnel are likewise tax-free.

8. Authority to Accept Gifts [Subsection (8)]

This subsection would authorize the Director to accept gifts and bequests to the Agency for the benefit or welfare of employees of the Agency or their dependents. It is anticipated that in future years there will be gifts or bequests from donors who are interested in the welfare of Agency employees and their dependents. For example, it is hoped that such funds may become available for scholarships which could be granted to children of Agency employees in deserving cases. This type of authority is available in varying forms to many agencies of Government today.

9. Cost Estimates

The foregoing provisions are based substantially on authorities available for Foreign Service personnel. When clearly justifiable and necessary for the well-being of Agency personnel serving overseas, Agency authorities for travel and medical care have been extended insofar as possible to provide comparable benefits. Consequently, the additional costs are so nominal that they are not measurable.